IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

WA.No. 1187 of 2006()

AGAINST THE JUDGEMENT IN WP(C).7094/2006

APPELLANTS: PETITIONERS:

1. T.J. JOSE, S/O. JOSEPH,
THERMADAM HOUSE, CHEMBUTHARA,
PATTIKKAD, THRISSUR.

2. JOSEPH THERMADAM,
THERMADAM HOUSE, CHEMBUTHARA,
PATTIKKAD, THRISSUR.

BY ADV. SRI.M.P.ASHOK KUMAR

RESPONDENTS: RESPONDENTS:

1. THE CHIEF MANAGER,
KERALA FINANCIAL CORPORATION,
VELLAYAMBALAM, THIRUVANANTHAPURAM.

2. MINISTRY OF SHIPPING AND SURFACE TRANSPORT,
NEW DELHI, REPRESENTED BY ITS SECRETARY.

3. THE PROJECT DIRECTOR & GENERAL
MANAGER (TECH), NATIONAL HIGHWAY AUTHORITIES
OF INDIA, THUSHARABINDU, NO.337,
CHANDRA NAGAR EXTN., NARICODE,
PALAKKAD DISTRICT.

R2 BY ADV. SRI. AJITH KRISHNAN, ADDL.CGSC
R3 BY ADV. SRI.THOMAS ANTONY
R1 BY ADV.SRI.V.B.UNNIRAJ

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 23/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T. SANKARAN, J.

W.A. NO. 1187 OF 2006 D

Dated this the 23rd day of May, 2007

JUDGMENT

H.L.DATTU, C.J.

This appeal is filed against the order passed by the learned single Judge in W.P.(C) No.7094 of 2006, dated 25th May, 2006.

2. This Court while entertaining the Writ Appeal had passed the following interim order:

> "This appeal has been filed against the order dated 25th May, 2006 passed by the learned Single Judge in W.P.(C) No.7094 of 2006. The appellants admit their liability to pay. The present liability, according to the Standing Counsel for the Kerala Financial Corporation, is about Rs.37 lakhs. The whole of the amount has not been admitted by the appellants, as there is dispute with regard to rate of interest.
>
> 2. The liability as mentioned above, is admitted and the appellants, as per the pleadings made in the Writ Appeal and the arguments made before Court, are prepared to pay as well, but according to them money could be paid only by sale of land, which has since been acquired, for which notification has also been issued by the National Highway. The appellants have real predicament as

the land subject matter of acquisition cannot be sold and even though, therefore, the appellants may have all the intention to pay, they are unable to pay.

3. Learned counsel appearing for the National Highway states that compensation will be paid to the appellants before possession is taken, but that would take about six months more.

In the circumstances as mentioned above, the Writ Appeal stands admitted and we stay the operation of the impugned orders seeking recovery from the appellants for a period of two months. Further order shall be passed with regard to extension of stay after assessing the situation after two months. List again on 11.1.2007.

Handover the order."

3. The learned counsel appearing for the appellants would submit that due to paucity of funds, they could not comply with the orders and directions issued by this Court. Therefore, they make a request to grant two months' time from today to pay the arrears to the first respondent Corporation. Having heard the learned counsel for the appellants, we feel that the request of the learned counsel is reasonable and if it is granted it would not cause any prejudice to the first respondent Corporation.

4. Accordingly, without going into the other details of the appeal, this appeal is disposed of. The appellants are granted two months' time from today to settle all the arrears due by them to the first respondent Corporation. If, for any reason, the appellants fail to settle the dues payable to the first respondent Corporation within the time granted by this Court, the Corporation is at liberty to proceed to recover the same.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/

H.L.DATTU, C.J.&
K.T.SANKARAN, J.

W.A.NO. 1187 OF 2006

JUDGMENT

23rd May, 2007